



## State of Utah

### Department of Natural Resources

MICHAEL R. STYLER  
*Executive Director*

### Division of Oil, Gas & Mining

JOHN R. BAZA  
*Division Director*

JON M. HUNTSMAN, JR.  
*Governor*

GARY R. HERBERT  
*Lieutenant Governor*

September 20, 2006

CERTIFIED RETURN RECEIPT  
7004 2510 0004 1824 3991

Tracy Burnham  
Decorative Landscaping, Inc.  
3231 North Millcreek Road  
Pleasant Grove, Utah 84062

Subject: Notice of Violation for Noncompliance with Rule R647-1-102.3, Decorative Landscaping, Inc., T & M Holding, S/035/023, Salt Lake County, Utah

Dear Mr. Burnham:

The City of Bluffdale has provided this agency with formal notification that your operation is not in compliance with their local regulations. Specifically, your operation is not in compliance with zoning and use laws, according to Bluffdale City.

The Utah Legislature has found that application and approval to mine from this Division does **"...not relieve the operator from responsibility to comply with all other applicable statutes, rules, regulations and ordinances..."** 40-8-17 Utah Code.

Although you may disagree with the City's determination, until you resolve issues with the City, you are out of compliance with state rule, R647-1-102.3, titled: *Operator Responsibilities, Compliance with other Local, State and Federal Laws*. The Division finds that your operation constitutes a violation of the Mined Land Reclamation Act and rules and therefore a notice of violation is being issued in writing concerning this matter. Please see the enclosed written notice of violation.

Your timelines for compliance and rights of appeal are detailed on the enclosed form of the notice of violation. I urge you to attend to this matter of zoning and other requirements in a timely fashion less a further step become necessary for this division to issue a Cease Mining Order.

Sincerely,

Mary Ann Wright  
Associate Director  
Mining Program

MAW:pb

cc: Steve Alder, State Assistant Attorney General  
Todd D. Weiler, Counsel for Bluffdale City

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# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

### Division of Oil, Gas & Mining

MICHAEL R. STYLER  
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Page 1 of 3

Notice of Violation ☒ No. MN2006-03-09-01  
Cessation Order ☐ No. \_\_\_\_\_

**CERTIFIED RETURN RECEIPT # 7004 2510 0004 1824 3991**

To the following Permittee or Operator:

Permittee/Operator Name: Decorative Landscaping, Inc.

Mine Name: T&M Holdings ☒ Surface ☐ Underground ☐ Other

County: Salt Lake State: Utah Telephone Number: 801-404-0368

Business Address: 3231 North Millcreek Road, Pleasant Grove, Utah 84062

Permit Number: M0350023

Ownership Category: ☐ State ☐ BLM ☐ USFS ☒ Fee ☐ Other

Date of Inspection: No on-site inspection conducted Time: ☐ a.m. ☐ p.m. to ☐ a.m. ☐ p.m.

Under authority of the Utah Mined Land Reclamation Act, Section 40-8-1 et seq., *Utah Code Annotated*, 1953, the undersigned authorized representative of the Division of Oil, Gas, and Mining has conducted an inspection of above mine on above date and has found that a Notice of Violation or Cessation Order must be issued with respect to the conditions, practices, or violations listed. In accordance with Section 40-8-9, *Utah Code Annotated*, you are ordered to cease immediately the operations or activity described and to perform the required actions described within the designated time for abatement.

The undersigned representative finds that this order ☐ does require cessation of all mining;  
☒ does not require cessation of all mining.

For this purpose, "mining" means development of, or extraction of a mineral deposit, including transportation within or from the mine site, concentrating, milling, evaporation, or other processing. Mining and/or reclamation operations not directly the subject of this order shall continue while this order is in effect. You are responsible for doing all work in a safe and workmanlike manner.

This order shall remain in effect until it is modified, terminated or vacated by written notice of an authorized representative of the director of the Division of Oil, Gas, and Mining.

Date of service/mailling: September 20, 2006 Time of service/mailling 3:30 a.m. ☒ p.m.

Tracy Burnham  
Permittee or Operator Representative

President  
Title

Signature

Paul B. Baker  
Division of Oil, Gas & Mining Representative

Reclamation Biologist  
Title

Signature



## IMPORTANT – READ CAREFULLY

### 1. PENALTIES.

a. **Proposed assessment.** The Division of Oil, Gas, and Mining (DOGM) assesses fines based upon a proposed assessment recommended by an assessment officer. You may submit written information pertaining to violation(s) covered by this order within 15 days of the date this notice or order is served on you or your agent. Information will be used by the assessment officer in determining facts surrounding the violation(s) and amount of penalty. A representative of the DOGM will serve the proposed assessment on you or your agent within 30 days of issuance of notice or order.

b. **Assessment.** The penalty will be final unless you or your agent file a written request within 15 days of receipt of proposed assessment for an informal hearing before the assessment officer.

For each violation included in this notice, a penalty of up to \$5,000 may be assessed for each separate day the violation continues.

If you fail to abate any violation within the time set for abatement or for meeting any interim step, you will be assessed an additional minimum penalty of \$750 for each day of continuing violation beyond the time set for abatement. In addition, if you fail to abate any violation as required you will be issued a Cessation Order requiring you to cease mining operations on the portion of the operations relevant to the violation.

### 2. STOP WORK CONFERENCE.

A Stop Work Conference may be requested if this notice requires cessation of all mining. On the reverse of this page, the authorized representative has made a finding as to whether or not this notice requires cessation of all mining. (See Utah Admin. R. 647-6-102.4 et seq.)

You must request the Stop Work Conference within 30 days after service of this Cessation Order. The conference must be held within 5 days of your request. You will be notified of the date, time, and location of the conference.

Please send your conference request to:  
Administrative Secretary  
Associate Director of Mining  
1594 West North Temple, Suite 1210  
PO Box 145801  
Salt Lake City, Utah 84114-5801

### 3. FORMAL REVIEW AND TEMPORARY RELIEF.

You may apply for review of this notice, order or proposed assessment before the Board of Oil, Gas, and Mining by submitting an application for hearing within 30 days of receipt of notice or assessment by you or your agent. Apply to:

Secretary  
Board of Oil, Gas, and Mining  
1594 West North Temple, Suite 1210  
PO Box 145801  
Salt Lake City, Utah 84114-5801

If applying for a formal board hearing, you may submit with your petition for review a request for temporary relief from this notice. Procedures for obtaining a formal board hearing are contained in the board's Rules of Practice and Procedure and in Utah Admin. R. 647-5 et seq.

### 4. INDIVIDUAL CIVIL PENALTIES.

An additional individual civil penalty of up to \$5000 per day may be assessed against any corporate director, officer, or agent who knowingly and willfully authorized, ordered or carried out a violation or who fails or refuses to comply with an order.

For further information, consult *Utah Code Annotated* Section 40-8-9, 9.1, Utah Admin. R. 647-6, 7, 8 seq. or contact the Division of Oil, Gas, and Mining at (801) 538-5304.



Notice of Violation NO. MN2006-03-09-01

Violation No. 1 of 1

Page 3 of 3

Nature of condition, practice, or violation:

Failure to comply with applicable statutes, rules, regulations, or ordinances of a local agency, Bluffdale City, with jurisdiction over the mining operations.

Provisions of act, regulations, or permit violated:

R647-1-102.3; UCA 40-8-17

(Check box if appropriate:)

- ☐ Condition, practice, or violation is creating an imminent danger to health or safety of the public.
- ☐ Permittee/Operator is/has been conducting mining activities without a permit.
- ☐ Condition, practice, or violation is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.
- ☐ Permittee or Operator has failed to abate Violation(s) No. \_\_\_\_\_ included in Notice of Violation No. or Cessation Order No. M \_\_\_\_\_ within time for abatement originally fixed or subsequently extended.

Mining activity to be ceased immediately:

Affirmative obligation(s) or required action and abatement time (if applicable):

Meet with appropriate Bluffdale City officials and develop a written plan for resolving conflicts between the zoning and current land use (mining operations). By November 1, 2006, present this plan to the Division showing how Decorative Landscaping will come into compliance with City ordinances.

pb

cc: DOGM  
File

P:\GROUPS\MINERALS\WP\M035-SaltLake\S0350023-DecorLandscape\non-compliance\mn2006030901.doc

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

TRACY BURNHAM  
DECORATIVE LANDSCAPING INC  
3231 NORTH MILLCREEK RD  
PLEASANT GROVE UT 84062

2. Article Number

(Transfer from service label) 7004 2510 0004 1824 3991

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

  
X☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

Tracy Burnham

SEP 22 2006

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes



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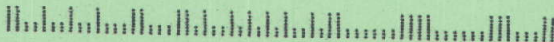


First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

- Sender: Please print your name, address, and ZIP+4 in this box •

PENNY BERRY  
STATE OF UTAH  
DIVISION OF OIL GAS & MINING  
PO BOX 145801  
SALT LAKE CITY UT 84114-5801

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SEP 25 2006  
DIV. OF OIL, GAS & MINING



U.S. Postal Service™

# CERTIFIED MAIL™ RECEIPT

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S/035/023, R647-1-102.3, 9/20/06

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TRACY BURNHAM

Street, Apt. No.,  
or PO Box No.

3231 NORTH MILLCREEK RD

City, State, ZIP+4

PLEASANT GROVE UT 84062

7004 2510 0004 1824 3991